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New York (State).

Legislature.

Report of the Committee  
on Banks

[Albany]

[1863]

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New York (State) Legislature. Committee on  
Banks.

Report of the Committee on Banks, relative  
to the payment of the state debt in coin.

1863.

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# State of New York.

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No. 34.

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IN SENATE, 31 x 851

February 10, 1863.

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## REPORT

### OF THE COMMITTEE ON BANKS, RELATIVE TO THE PAYMENT OF THE STATE DEBT IN COIN.

The committee on banks, to which was referred at the close of the last session the following resolution :

"IN SENATE, ALBANY, *April 22, 1862.*

"Mr. Pruyn offered the following :

"*Resolved*, That the Senate do cordially concur in the views of the Commissioners of the Canal Fund, contained in their late report to the Senate, affirming it to be the duty of the State to pay the principal and interest of the State Debt in coin or its equivalent.

"Ordered that said resolution be referred to the committee on banks.

"JAS. TERWILLIGER, *Clerk.*"

The committee have had this resolution under consideration, and respectfully submit the following

## REPORT:

The banks of this State suspended specie payments about the 25th of December, 1861; the Canal Funds are deposited in the deposite banks selected by the State officers, under two classes of contracts. The first class is with the banks in the cities of New York, Albany and Troy; the banks in those cities receive what is called the matured tolls, that is, funds current in either of the above named cities, and interest commences from the day the deposits are made; except such funds as may come into the treasury from the different counties for taxes, this class of funds sometimes comes in currency, at other times in drafts, but in whatever

form they come, the bank that keeps the Treasurer's account must receive and credit them at par. This contract consists of six sections.

The second class of contracts are with banks whose locations are out of either of the above named cities, and they relate exclusively to canal tolls, which these banks receive from canal collectors. The governing principle of this last class of contracts, which consist of eight sections, are concisely stated in the first section, and part of the sixth section, which read as follows:

*"Terms and conditions.—1st. The banks shall receive the deposits in money, or in bills of any bank or banking association in this State, which shall continue to redeem its bills in the city of New York, Albany or Troy, pursuant to law. The said deposits shall be received by the banks as frequently as the collector shall be directed to make them, not more than once in each day, and shall be passed to the credit of the Treasurer of the State."*

From this first section of the contract, it appears that the deposit banks are bound by the terms of their contract, to receive from the canal collectors the tolls "in money, or in bills of any bank or banking association in this State, which shall continue to redeem its bills in the city of New York, Albany or Troy, pursuant to law." The term pursuant to law, means circulating notes or bills of any bank in this State which are not more than one-fourth per cent discount in those cities; but whether these deposit banks get a gold dollar for every dollar of these bills received by them, or whether they become worthless after the deposit banks have received them, is wholly immaterial to the State, as the banks, by their contracts, accompanied by a bond with responsible sureties, have agreed to receive these bills so long as they are not more than one-fourth per cent discount in the above named cities; and whatever contingencies may await these circulating bills, either of loss or gain, belong entirely to the banks. In this manner the first section of the contract puts the canal tolls into the deposit banks.

The next inquiry is, how are these tolls transferred from these deposit banks to the State treasury, and in what funds? The sixth section of the contract provides for this in the following words:

"But the bank shall at all times answer at sight, the drafts of the Treasurer, for all or any part of the deposits it may have in

hand, in funds current at the banks in the city of Albany, in which the Treasurer may keep the deposit of the canal moneys; such drafts not to be made until twenty days from the end of each month within which the moneys drawn for were collected."

It will be seen by these terms, that if the deposit banks respond promptly to the drafts thus drawn upon them by the Treasurer, "in funds current at the banks in the city of Albany," they have performed all of their obligations under the contract. There is nothing in the contract about "coin" or "equivalents," and in no sense can these deposits be regarded a debt to be paid in "coin," certainly not until after the Treasurer's drafts have been dishonored by a refusal of the banks to pay, according to the terms of the contract. The claim of the State officers to demand "coin," under these contracts, before the banks had refused to pay according to their terms, is frivolous, and cannot be sustained nor upheld.

After the execution and filing of these contracts in the Canal Department, they become valid instruments, binding upon both parties; they are also notice to State officers, as well as all other persons, to observe and keep their provisions. After the execution of these contracts, could any one of these deposit banks say to the canal collectors, you must collect the tolls in "coin" or they will not be received at this bank? and if they could not, could a State officer say to the bank, neither the currency which you have received under your contract for tolls, nor funds current in Albany will be received by the State, we must have "coin?"

Suppose all, or any portion of the bills which these banks had received for tolls had become worthless in their hands, would that fact give them a claim against the State? If not, can the State officers ask payment of the banks in something different and more valuable than their own contract gives them? If a State can pass no law impairing the obligation of contracts, can a State officer change or alter their terms at pleasure, or wholly disregard the contract itself?

Yet in the face of this contract, and on the 4th of April, 1862, when innumerable laborers were pressing the work to get the canals ready for navigation; and just at the time when warehouse men, shippers, forwarders and other commercial men connected with the canals were making their money arrangements for their season business, this specie circular, with its disturbing

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elements of mischief, was sent out by the State officers, or, perhaps, more truthfully speaking, by the Comptroller, as he is regarded, by virtue of his office, as the chief financial officer of the State, and the one who drew up this specie circular, and also the report in answer to the resolutions of the Senate; therefore there is no injustice in regarding these papers as his own.

The first inquiry in the resolutions of the Senate was:

"If the holders of the State stock, maturing the present year, have refused to receive payment of principal and interest as formerly at the Manhattan company in the city of New York?"

To this inquiry the Comptroller, in the opening part of his report, answers:

"As to the first inquiry, it may be stated unequivocally, that holders of the State stocks have not refused to receive payment of principal and interest as formerly at the Manhattan company in the city of New York."

The above answer being true, what public necessity was there for issuing this specie circular? If the holders of the State stocks had not refused to receive principal and interest *as formerly* at the Manhattan company in the city of New York, how can the issuing of that specie circular be justified? This admission of the Comptroller settles the whole question against him, and shows that there was an entire absence of a public necessity in calling upon the banks for "coin."

But the Comptroller goes on to say:

"Formerly and always, the holders of these stocks have been paid in coin, or its equivalent, and we have no knowledge or belief that they have refused to receive payment in the same way."

The specie circular called for "coin," the inquiry of the Senate was in relation to "*coin*," and nothing was said in the circular, nor in the inquiry of the Senate, about "*equivalents*," and saying in his report, that payments had been made in "*equivalents*," when no information in regard to "*equivalents*" was called for, is not only evasive, but trifling.

The report proceeds:

"The statement annexed and marked A, shows the amount of canal funds held by each of the deposit banks, April 1, 1862, also blank copies of the contracts with the banks are hereunto annexed, marked respectively B. and C."

The statement A. gives the list of 62 deposit banks, in which were deposited canal funds on the first day of April, 1862, to the

amount of \$2,231,548.56. Of this sum, there was on deposit in the city of New York, about the sum of .....	\$600,000 00
Albany, the sum of .....	500,000 00
Oswego, the sum of .....	160,000 00
Buffalo, the sum of .....	500,000 00
	<hr/> \$1,760,000 00 <hr/>

The balance was in banks along the line of the Erie, Champlain and lateral canals. Statements B. and C. are copies of the contracts under which these funds are deposited; these contracts were intended to mean something, or they would not have been made. The attention of the Senate is invited to their provisions, copies of which, together with the specie circular, and the report in answer to the resolutions of the Senate, may be found in Senate Doc. No. 113, 1862.

The specie circular informs us:

"The Commissioners of the Canal Fund have to pay \$900,000 of the principal of the canal debt, due in January next, and also the quarterly interest, amounting to about \$350,000.00, due in January, April, July and October. \* \* \* The proportion required for principal in June from your bank, will not exceed thirty per cent. of the amount now held by it. For subsequent quarterly interest the amount will be small."

From this circular it appears that there was \$900,000.00, and \$350,000.00 interest of the Canal Fund Debt, to be paid during the year 1862; the principal and part of the quarterly interest was due in June of that year. To meet this payment there were funds on hand to the amount of \$2,231,548.56, out of which the Comptroller wished to pay in gold \$1,250,000.00, and tells the banks through his specie circular, that to meet the June payments, it will not exceed thirty per cent. of the amount held by each, and for subsequent quarterly interest the amount will be small. What particular sum is meant by the word "small," he does not inform us. But why not state the fact as it is? There are canal funds on hand deposited in banks to the amount of \$2,231,548.56. Out of that sum the Comptroller wishes to pay \$1,250,000.00, and calls upon the banks to advance that sum in gold; now what per cent. on these deposits are the banks called upon to advance in gold? The answer must be 56 per cent., instead of "thirty" and "small," as stated by the Comptroller.

We will now suppose an application to be made of this call for coin upon the banks holding this \$2,231,548.56 at 56 per cent

on the amount held by each bank, that we may see *how far it reaches into* coin held by each; and to avoid all complaint of a want of fairness in the selection, we will take a bank of the largest capital in the city of Albany, the Albany City Bank. This bank had canal fund moneys on deposit April 1, 1862, to the amount of \$168,011.05, and 56 per cent. on that amount would be \$94,086.00; and on the same day this bank had specie on hand to the amount of \$70,349: therefore the Comptroller's call for "coin" would not only take every dollar of coin this bank had in its vaults, but even that would pay but little over two-thirds of the amount called for, leaving the institution without one dollar in coin to make the change on a check, and without one penny in coin for its other creditors, who were holding at that time over four million of dollars of liabilities against that bank.

Yet with this certain knowledge of the condition of that bank, which is taken from public documents, that it was a debtor to the State in amount more than double all the "coin" they possess, and if a resort to the deposit banks for coin was made under the specie circular, this bank could not respond to it, except by a purchase in the market. Notwithstanding these facts, which are of public record, a resolution is offered "cordially approving" the payment of the State debt in coin or its equivalent, and in doing so, the mover becomes a volunteer on the floor of the Senate to give vitality to a political dogma, which for years has been exploded from the minds of all business men, particularly among commercial men of all political parties.

Take another case of the deposit banks under this specie circular. The banks in the city of Buffalo had canal funds on deposit under their several contracts with the State, April 1, 1862, to the amount of \$506,175.46. For them to pay 56 per cent. in gold on the amount held by each, their quota would be \$283,458, and on that day they had coin on hand in the aggregate to the amount of only \$79,540.

It is unnecessary to multiply examples; these two cases will give the Senate a fair idea of the average condition of the deposit banks, so far as coin and the canal fund deposits are concerned; but it is only fair to the banks to say that they may have had all the gold on hand that their ordinary business required, and whether that be true or not, this fact is certainly true, that the State had neither a legal nor a moral right under their contract to call upon them for gold for the canal tolls.

The aggregate amount of tolls collected on the canals last year

was about five millions of dollars. Can any person suppose that for that amount of tolls, the banks were to pay into the treasury five million of dollars in gold? But the Comptroller informs us that the funds called for by the specie circular were deposited in the banks previous to the suspension of specie payments. That fact can make no difference, because if a general suspension of specie payments by all the banks and States in the Union means anything, it covers all liabilities existing at the time of such suspension; but however that may be, the contracts between those banks and the State was their certain and sufficient protection. That each one of the 62 deposit banks understood its contract to be its protection from a demand for coin for these tolls, may be gathered from the fact that not one of the whole number made any preparation to pay the amount of these tolls in coin, and this conclusion is warranted by the amount of coin these banks had on hand April 1st, 1862. Besides, the compensation which the banks receive for the service rendered in the collection and transmission of these tolls to the State treasury forbids the belief that the State or the banks expected that these tolls were to be accounted for in "coin." The only compensation which the banks receive, under their contract with the State, for risks in receiving the tolls in scattered lots of money, keeping the accounts, making monthly returns, and for the difference in the rate of exchange, is the use of the money twenty days without interest, a compensation that will hardly equal the average loss on the money received.

The report proceeds:

"A large portion of the debt not held by the banks, is owned in foreign countries, and other States, where we cannot, if we would, make payments in depreciated paper. The money must be paid in coin or not paid at all."

The debt of this State is about thirty millions of dollars, of which the canal debt is about.....	\$24,000,000
General Fund Debt do .....	6,000,000
	<hr/>
	\$30,000,000

The Auditor of the Canal Department, in his report for 1863, at page 89, informs us that canal stocks held by citizens of the United States is.....	\$22,528,728 59
On foreign account.....	1,452,827 36

The Comptroller, in his report, does not give us a table showing the holders of the General Fund stocks; but if they are held on foreign account in the same proportion as the canal stocks, the sum held on foreign account would be less than \$400,000, so that the whole amount of the stocks of this State, held on foreign account, would be less than two millions of dollars. But whether a greater or less sum than that is of no consequence, because all holders of the stocks of this State are to be regarded as equals, and in the payment of principal or interest no distinction should be made.

To talk about one portion of the State debt being more sacred than another portion of the same debt is without reason; the whole debt is sacred, and each and all parts of it are to be honorably paid, and paid alike. It is equally objectionable to hear State officers, connected with the finances of the State, speak flippantly, in their reports, of "depreciated paper," "irredeemable paper," when the whole finances of the State, and all the operations of its treasury, have been, and probably ever will be, carried on through the use of paper money in some form; and the form in which it shall be used belongs exclusively to the Legislature, and not to State officers; and it should also be remembered that the issuing of specie circulars tends to depreciate paper, and increase the premium on gold.

In the management of the State finances, and payment of State stocks, the practice has been uniform and well settled from an early day in the history of the government of this State, down to the present time, with the exception of the years 1837 and 1862; and that practice is, for the State, by its proper officer, to give public notice to the holders of State stock maturing in any given year, that funds have been deposited with the Manhattan company, in the city of New York, and that the holders of the stock, on surrendering the same to that institution, would receive principal and interest for the same; and, further, that interest would cease after the day named in the notice. The debt has been thus quietly settled and paid, through a practice uniform, satisfactory, and attended with little trouble to the State and the holders of its stock, and which has not been departed from, so far as we can learn, except in the two years above named. The financial operations of the State for those two years are now before the committee to be reviewed, on the report of the Comptroller to the Senate.

The canals are the property of the people of this State, they were built and paid for by them, and the care and management of them, and their finances, are subject to a code of laws carefully prepared by the Legislature, and no outside nor inside party, unknown to the law, has the right to interfere; the State having constructed the canals, she can fill them up if it is her pleasure to do so; or she may fix a rate of toll to be paid by those who use them, payable in bank bills which circulate as money, or in wheat, or flour, or in any other production of the earth, or the forest; or she may allow them to be used free of toll. Therefore it is, that the State officers, representing the power conferred by the Legislature, were competent to make just such a contract with the deposit banks as they did make, and it should have been honorably observed, or not made at all. To hold a different doctrine, or to hold that the tolls should be paid in "coin," would drive all tonnage from the canals, and they would truly become a "waste of waters."

The contracts made by the State officers with the deposit banks in relation to Canal Fund moneys, and now on file in the Canal Department, are still existing contracts, and with their sureties cover all the canal funds now on deposit in those banks; to change the terms of those contracts, would release the sureties, and as the Legislature have no power over them, the Senate cannot afford to advise an interference with them.

For the reasons set forth in this report, the committee are of the opinion that the resolution offered by the Senator from the 13th district ought not to pass, and have agreed to the following resolution, which they have directed their chairman to report to the Senate:

*Resolved*, That the resolution offered by the Senator from the 13th district (Mr. Prunyn), in relation to the payment of the State Debt in coin, and referred to this committee for its consideration, have unanimously come to the conclusion that it ought not to pass.

All of which is respectfully submitted.

CHARLES COOK,  
ALLEN MONROE,  
WILLIAM H. TOBEY.

Mr. Stone

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